

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
DAVID G. GIFFORD,**

Petitioner,

**9:19-cv-194
(GLS/DJS)**

v.

M. THOMS,

Respondent.

APPEARANCES:

OF COUNSEL:

FOR THE PETITIONER:

David G. Gifford
Pro Se
16-B-0799
Five Points Correctional Facility
Call Box 119
Romulus, NY 14541

FOR THE RESPONDENT:

HON. LETITIA JAMES
Attorney General of the
State of New York
28 Liberty Street
New York, NY 10005

PAUL B. LYONS
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following a Report-Recommendation and Order (R&R) by Magistrate Judge Daniel J. Stewart duly filed on September 11, 2020. (Dkt. No. 18.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all

objections filed by the parties herein.

No objections having been filed,¹ and the court having reviewed the R&R for clear error, it is hereby

ORDERED that the Report-Recommendation and Order (Dkt. No. 18) is **ADOPTED** in its entirety; and it is further

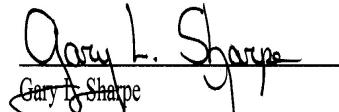
ORDERED that the petition (Dkt. No. 1) is **DENIED** and **DISMISSED** and it is further

ORDERED that no certificate of appealability will be issued because petitioner has failed to make “a substantial showing of the denial of a constitutional right” as required by 28 U.S.C. § 2253(c)(2); and it is further

ORDERED that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

September 30, 2020
Albany, New York



Gary L. Sharpe
U.S. District Judge

¹ On July 27, 2020, a change of address form that had been sent to petitioner was returned to sender with the notation “paroled.” (Dkt. No. 17.) A deputy clerk verified that petitioner was released on July 3, 2020. (*Id.*) Petitioner has failed to promptly notify the court and all parties or their counsel of any change in his address in compliance with the court’s February 15, 2019 Order, (Dkt. No. 4), and Local Rule 10.1(c)(2). The court notes that petitioner’s copy of the Report-Recommendation and Order was returned as “refused–unable to forward” for the same reason. (Dkt. No. 19).